



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0726; FRL-9960-08-Region 9]

Approval and Limited Approval and Limited Disapproval of Air Quality Implementation Plans; California; Mendocino County Air Quality Management District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing action on four permitting rules submitted as a revision to the Mendocino County Air Quality Management District (“MCAQMD” or “the District”) portion of the applicable state implementation plan (SIP) for the State of California pursuant to requirements under the Clean Air Act (CAA or Act). We are finalizing a limited approval and limited disapproval of one rule and finalizing approval of the remaining three permitting rules. The amended rules govern the issuance of permits for stationary sources, including review and permitting of minor sources, and major sources and major modifications under part C of title I of the Act. The limited disapproval action triggers an obligation for EPA to promulgate a Federal Implementation Plan (FIP) for the specific New Source Review (NSR) program deficiencies unless California submits and we approve SIP revisions that correct the deficiencies within two years of the final action.

DATES: This rule will be effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2016-0726. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, by phone: (415) 972-3534 or by email at yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

Table of Contents

- I. Proposed Action
- II. EPA Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On December 27, 2016 (81 FR 95074), the EPA proposed a limited approval and limited disapproval (LA/LD) or a full approval (as noted in the table) of the following rules that were submitted for incorporation into the Mendocino County portion of the California SIP.

Table 1 – Submitted NSR Rules

Rule #	Rule Title	Amended/Adopted	Submitted	Proposed Action
1-130	Definitions	9/20/16	11/15/16	Full Approval
1-200	Permit Requirements	9/20/16	11/15/16	Full Approval

1-220	New Source Review Standards (Including PSD Evaluations)	9/20/16	11/15/16	LA/LD
1-230	Action on Applications	9/20/16	11/15/16	Full Approval

We proposed a full approval of Rules 1-130, 1-200 and 1-230 because we determined that these rules improve the SIP and are consistent with the relevant CAA requirements. We proposed a limited approval of Rule 1-220 because we determined that the rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval of Rule 1-220 because some rule provisions conflict with part C of the Act. These provisions include the following:

- A. Rule 1-220 does not contain any provisions specifying that required air quality modeling shall be based on the applicable models, databases, and other requirements specified in Part 51 Appendix W; therefore, the requirements of 40 CFR 51.160(f) and 51.166(l) have not been met.
- B. The requirements of 40 CFR 51.166(r)(1) and (2) have not been met because the rule does not include the necessary information about a source's obligations.

II. EPA Action

No comments were submitted. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a limited approval of Rule 1-220 and a full approval of Rules 1-130, 1-200 and 1-230. This action incorporates the submitted rules into the Mendocino County portion of the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3) and 301(a), the EPA is simultaneously finalizing a limited disapproval of Rule 1-220.

As a result, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule within 24 months. EPA

staff are coordinating with Mendocino County AQMD and expect resolution of the deficiencies before a FIP would be required.

In addition, because we are finalizing our proposed action, the California Infrastructure SIP deficiencies identified in our April 2016 (81 FR 18766) rulemaking with respect to Mendocino County AQMD for the 1997 and 2006 PM_{2.5} NAAQS are remedied. Therefore, we are updating the Mendocino County portion of the California SIP accordingly.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MCAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and in hard copy at the U.S. Environmental Protection Agency, Region IX (Air -3), 75 Hawthorne Street, San Francisco, CA, 94105-3901.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:

Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: March 1, 2017.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(119)(ii)(C), (c)(158)(i)(D), and (c)(489) and removing and reserving paragraphs (c)(171)(i)(A) and (c)(385)(i)(A) to read as follows:

§52.220 Identification of plan – in part.

* * * * *

(c) * * *

(119) * * *

(ii) * * *

(C) Previously approved on June 18, 1982 in paragraph (c)(119)(ii)(A) of this section and now deleted with replacement in paragraph (c)(489)(i)(A)(4) of this section, Rule 230.

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(158) * * *

(i) * * *

(D) Previously approved on July 31, 1985 in paragraph (c)(158)(i)(B) of this section and now deleted with replacement in paragraph (c)(489)(i)(A)(3) of this section, Chapter II, 220 (a)(2) and (b)(3, 4, 6, 8 and 9).

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(171) * * *

(i) * * *

(A) [Reserved]

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(385) * * *

(i) * * *

(A) [Reserved]

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(489) Amended regulations for the following AQMD was submitted on November 15, 2016 by the Governor’s Designee.

(i) *Incorporation by Reference.* (A) Mendocino County Air Quality Management District.

(1) Regulation I, Rule 1-130, “Definitions,” amended on September 20, 2016.

(2) Regulation I, Rule 1-200, “Permit Requirements,” amended on September 20, 2016.

(3) Regulation I, Rule 1-220, “New Source Review Standards (Including PSD Evaluations),” amended on September 20, 2016.

(4) Regulation I, Rule 1-230, “Action on Applications,” amended on September 20, 2016.

§52.223 [Amended]

3. Section 52.223 is amended by removing and reserving paragraphs (i)(2), (j)(1), (k)(1), (l)(2), (m)(1), (n)(1), and (o)(1).

§52.233 [Amended]

4. Section 52.233 is amended by removing and reserving paragraph (d)(12).

5. Section 52.270 is amended by revising paragraph (b)(3) introductory text to read as follows:

§52.270 Significant deterioration of air quality.

* * * * *

(b) * * *

(3) The PSD program for Mendocino County Air Quality Management District, as incorporated by reference in §52.220(c)(489) is approved under Part C, Subpart 1, of the Clean Air Act.

However, EPA is retaining authority to apply §52.21 in certain cases. The provisions of §52.21 except for paragraph (a)(1) are therefore incorporated and made a part of the State plan for California for the Mendocino County Air Quality Management District for:

* * * * *

§52.283 [Amended]

6. Section 52.283 is amended by removing and reserving paragraphs (c)(1)(i), (d)(1)(i), (e)(2)(i), (f)(2)(i), and (g)(1)(i).

[FR Doc. 2017-13188 Filed: 6/30/2017 8:45 am; Publication Date: 7/3/2017]